



  
Frank W. Volk, Chief Judge  
United States Bankruptcy Court  
Southern District of West Virginia

**Dated: October 9th, 2018**

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

IN RE:

DENNIS RAY JOHNSON, II, *et al.*

Debtor-in-Possession.

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PEOPLES BANK, an Ohio Banking  
Corporation, as assignee of Producers Coal,  
Inc. and Moussie Processing, LLC

Plaintiff,

v.

KENTUCKY FUEL CORPORATION, a  
Delaware Corporation,

Defendant.

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Bankruptcy No. 3:16-bk-30227

Chapter 11

Adversary Pro. No. 3:18-AP-03004

**CONSENT JUDGMENT**

Plaintiff, Peoples Bank (“Peoples”), an Ohio Banking Corporation, through its undersigned counsel, and Defendant, Kentucky Fuel Corporation (“Kentucky Fuel”), through undersigned counsel, stipulate and agree as follows:

WHEREAS, On March 28, 2018, Peoples filed a Complaint against Kentucky Fuel for breach of contract. [See Compl. ECF No. 1]. Kentucky Fuel filed its Answer on May 16, 2018 [See Ans. Compl. ECF No. 5].

WHEREAS, without admitting liability, Kentucky Fuel nevertheless wishes to resolve this matter and it hereby consents to entry of judgment in favor of Peoples and against it in the above-captioned case.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, ORDERED  
AND ADJUDGED THAT JUDGMENT** be entered as follows:

1. Kentucky Fuel consents to the jurisdiction of this Court to enter final judgment as against it in this proceeding.
2. Judgment (the “Consent Judgment”) is hereby entered in favor Peoples Bank and against Kentucky Fuel in the amount of Nine Hundred Fifty Thousand Dollars (\$950,000.00).
3. This Consent Judgment is not appealable.
4. The Bankruptcy Court shall have exclusive jurisdiction over any action to enforce this Consent Judgment, or any provision thereof.
5. Kentucky Fuels has obtained the advice of counsel and is consenting and agreeing to all of the terms of this Consent Judgment freely and voluntarily.
6. The Clerk of Court shall enter this Consent Judgment promptly on the docket of the Court.

**IT IS SO ORDERED.**

**AGREED AND CONSENTED TO:**

Peoples Bank  
By Counsel,

BERNSTEIN-BURKLEY, P.C.

/s/ John J. Richardson

John J. Richardson, Esq. (WVSB# 13140)

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Kentucky Fuel Corporation  
By Counsel,

SHELTON, BRANHAM & HALBERT, PLLC

/s/ Billy R. Shelton

Billy R. Shelton, Esq. (W.V. Bar # 12926)

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## Imaged Certificate of Notice Page 4 of 4

United States Bankruptcy Court  
Southern District of West VirginiaPeoples Bank,  
Plaintiff

Adv. Proc. No. 18-03004-FWV

Kentucky Fuel Corporation,  
Defendant**CERTIFICATE OF NOTICE**

District/off: 0425-3

User: ljj

Page 1 of 1

Date Rcvd: Oct 09, 2018

Form ID: pdf001

Total Noticed: 7

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 11, 2018.

smg United States Attorney, Southern District WV, P.O. Box 1713, Charleston, WV 25326-1713  
 smg WV Department of Tax & Revenue, Bankruptcy Unit, P.O. Box 766, Charleston, WV 25323-0766  
 dft +Kentucky Fuel Corporation, 1209 Orange Street, Wilmington, DE 19801-1120  
 intp +Thomas H. Fluharty, Trustee, 408 Lee Avenue, Clarksburg, WV 26301-3638

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

ust +E-mail/Text: ustpreion04.ct.ecf@usdoj.gov Oct 09 2018 20:20:02 U.S. Trustee,  
 2025 Robert C. Byrd U.S. Courthouse, 300 Virginia Street, East, Charleston, WV 25301-2503  
 ust +E-mail/Text: ustpreion04.ct.ecf@usdoj.gov Oct 09 2018 20:20:02 United States Trustee,  
 2025 Robert C. Byrd U.S. Courthouse, 300 Virginia Street, East, Charleston, WV 25301-2503  
 pla E-mail/Text: collections@pebo.com Oct 09 2018 20:19:54 Peoples Bank, 138 Putnam ST,  
 Marietta, OH 45750-2923

TOTAL: 3

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Oct 11, 2018

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 9, 2018 at the address(es) listed below:

Billy Ray Shelton on behalf of Defendant Kentucky Fuel Corporation billys1@jwtslaw.com,  
 bshell18140@aol.com  
 Joe M. Supple on behalf of Interested Party Thomas H. Fluharty, Trustee info@supplelaw.net  
 John J. Richardson on behalf of Plaintiff Peoples Bank jrichardson@bernsteinlaw.com,  
 sandeits@bernsteinlaw.com;rmccartney@bernsteinlaw.com  
 Kirk B Burkley on behalf of Plaintiff Peoples Bank kburkley@bernsteinlaw.com,  
 pghecf@bernsteinlaw.com;cwirick@bernsteinlaw.com;cwirick@ecf.courtdrive.com;kburkley@ecf.courtdrive.com

TOTAL: 4